IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WA.No. 1581 of 2007

AGAINST THE JUDGEMENT IN WPC.1961/2007 DATED 24TH JANUARY, 2007

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APPELLANT/ PETITIONER.

A.SELVAN, RESIDING AT KUNDANPADAM HOUSE,
ENNAPADAM, ELAPPULLY P.O., PALAKKAD DISTRICT.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
SRI.SUNIL J.CHAKKALACKAL

RESPONDENTS/RESPONDENTS.

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1. INDIAN BANK,
REPRESENTED BY ITS CHIEF MANAGER, CIRCLE OFFICE,
P.B. NO.3515, CHITTOOR ROAD, PULLEPADY JUNCTION,
ERNAKULAM.

2. THE MANAGER, INDIAN BANK,
MAIN BRANCH, PALAKKAD.

3. THE AUTHORISED OFFICER,
INDIAN BANK, CIRCLE OFFICE, PULLEPADY JUNCTION,
ERNKAULAM.

FOR BANK - BY ADV. SRI.T.K.AJITH KUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 1581 OF 2007

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Dated this the 9th July , 2007

J U D G M E N T

H.L. Dattu, C.J.:

Aggrieved by the orders passed by the learned single Judge in W.P. (C) 1961 of 2007 dated 24th January, 2007, the petitioner/appellant herein is before us in this appeal.

2. In the Writ Petition filed, the petitioner had called in question Ext.P1 notice issued by the respondent-Bank in exercise of the powers under section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. The learned single Judge was of the opinion that, if for any reason, the petitioner/appellant has any grievance with regard to Ext.P1 notice issued by the Bank, he has a right of appeal before the Debt Recovery Tribunal. First and foremost, we cannot take exception to the orders passed by the learned single Judge unless the order passed is arbitrary or perverse. However, learned counsel for the petitioner/appellant would plead the financial difficulties faced by the petitioner/appellant and therefore suggests that the petitioner/appellant may be given sometime to pay off the amount due to the respondent-Bank, in five equal monthly instalments.

4. In the normal course, we would not have acceded to such a prayer

sought for by the petitioner/appellant before the court. But, taking into consideration the financial difficulties of a Class IV employee working in the Kerala State Electricity Board, we have decided to grant some instalments to the petitioner/ appellant, to discharge the entire liability as demanded by the respondent-Bank.

5. In view of the above, the following:

O R D E R

i) Without expressing any opinion on the correctness or otherwise of the orders passed by the learned single Judge, the Writ Appeal is disposed of.

ii) The affidavit filed by the petitioner/appellant, by way of an undertaking is placed on record.

iii) The petitioner/appellant shall pay the entire amount due to the respondent-Bank in five equal monthly instalments, without committing any default.

iv) If, for any reason, the petitioner/appellant fails to comply with the orders and directions issued by this court, the respondent-Bank is at liberty to initiate appropriate proceedings, to recover the entire dues from the petitioner/appellant.

v) I.A.No.555 of 2007 is also disposed of.

vi) The order passed by us in this Writ Appeal, shall not be treated as a precedent in any other case.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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